

## **IC 4-4-11.5**

### **Chapter 11.5. State Private Activity Bond Ceiling**

#### **IC 4-4-11.5-1**

##### **"Bond"**

Sec. 1. As used in this chapter, "bond" means any:

- (1) bond or mortgage credit certificate for which it is necessary to procure volume under the volume cap under Section 146 of the Internal Revenue Code; or
- (2) bond or other obligation for which a special volume cap is authorized under a federal act.

*As added by P.L.20-1985, SEC.7. Amended by P.L.2-1987, SEC.3; P.L.25-1987, SEC.9; P.L.24-1995, SEC.17; P.L.10-1996, SEC.1; P.L.182-2009(ss), SEC.49.*

#### **IC 4-4-11.5-2**

##### **"Carryforward election"**

Sec. 2. As used in this chapter, "carryforward election" means a carryforward election of a part of the volume cap made under the authority of Section 146(f) of the Internal Revenue Code.

*As added by P.L.20-1985, SEC.7. Amended by P.L.2-1987, SEC.4; P.L.25-1987, SEC.10; P.L.10-1996, SEC.2.*

#### **IC 4-4-11.5-3**

##### **Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

#### **IC 4-4-11.5-4**

##### **Repealed**

*(Repealed by P.L.25-1987, SEC.60.)*

#### **IC 4-4-11.5-4.5**

##### **Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

#### **IC 4-4-11.5-4.7**

##### **Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

#### **IC 4-4-11.5-5**

##### **Repealed**

*(Repealed by P.L.11-1990, SEC.135.)*

#### **IC 4-4-11.5-6**

##### **"IFA"**

Sec. 6. As used in this chapter, "IFA" refers to the Indiana finance authority established by IC 4-4-11.

*As added by P.L.20-1985, SEC.7. Amended by P.L.11-1990, SEC.75; P.L.235-2005, SEC.34.*

**IC 4-4-11.5-6.3****"IHCDA"**

Sec. 6.3. As used in this chapter, "IHCDA" refers to the Indiana housing and community development authority established by IC 5-20-1.

*As added by P.L.25-1987, SEC.13. Amended by P.L.1-2006, SEC.34 and P.L.181-2006, SEC.2.*

**IC 4-4-11.5-6.7****Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

**IC 4-4-11.5-7****"Internal Revenue Code"**

Sec. 7. As used in this chapter, "Internal Revenue Code" has the meaning set forth in IC 6-3-1-11.

*As added by P.L.20-1985, SEC.7.*

**IC 4-4-11.5-7.2****"ISMEL"**

Sec. 7.2. As used in this chapter, "ISMEL" refers to the Indiana secondary market for education loans, incorporated, designated by the governor under IC 20-12-21.2-2 (before its repeal) or IC 21-16-5-1.

*As added by P.L.291-2001, SEC.113. Amended by P.L.2-2007, SEC.23.*

**IC 4-4-11.5-7.5****"Issuer"**

Sec. 7.5. As used in this chapter, "issuer" means IFA, IHCDA, ISMEL, a local unit, or any other issuer of bonds that must procure volume under the volume cap.

*As added by P.L.25-1987, SEC.15. Amended by P.L.11-1990, SEC.76; P.L.10-1996, SEC.3; P.L.291-2001, SEC.114; P.L.235-2005, SEC.35; P.L.1-2006, SEC.35 and P.L.181-2006, SEC.3.*

**IC 4-4-11.5-8****"Local unit"**

Sec. 8. As used in this chapter, "local unit" means a city, town, or county.

*As added by P.L.20-1985, SEC.7.*

**IC 4-4-11.5-8.3****"Mortgage credit certificate"**

Sec. 8.3. As used in this chapter, "mortgage credit certificate" refers to a mortgage credit certificate issued under Section 25 of the Internal Revenue Code of 1986, including any later amendments.

*As added by P.L.24-1995, SEC.18.*

**IC 4-4-11.5-8.5****"NAICS Manual"**

Sec. 8.5. As used in this chapter, "NAICS Manual" refers to the current edition of the North American Industry Classification System Manual - United States published by the National Technical Information Service of the United States Department of Commerce.  
*As added by P.L.291-2001, SEC.115.*

**IC 4-4-11.5-9****Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

**IC 4-4-11.5-10****Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

**IC 4-4-11.5-11****Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

**IC 4-4-11.5-11.5****Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

**IC 4-4-11.5-12****Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

**IC 4-4-11.5-13****"SIC Manual"**

Sec. 13. As used in this chapter, "SIC Manual" refers to the current edition of the Standard Industrial Classification Manual of the United States Office of Management and Budget.  
*As added by P.L.20-1985, SEC.7. Amended by P.L.24-1995, SEC.19.*

**IC 4-4-11.5-13.5****"Special volume cap"**

Sec. 13.5. As used in this chapter, "special volume cap" means the maximum dollar amount of bonds that may be allocated to the state under the authority of a federal act. The special volume cap is in addition to the volume cap as defined in section 14 of this chapter.  
*As added by P.L.182-2009(ss), SEC.51.*

**IC 4-4-11.5-14****"Volume cap"**

Sec. 14. As used in this chapter, "volume cap", as it relates to a year, means the maximum dollar amount of bonds that may be issued by issuers within that year under Section 146 of the Internal Revenue Code.  
*As added by P.L.20-1985, SEC.7. Amended by P.L.2-1987, SEC.6;*

*P.L.25-1987, SEC.20; P.L.10-1996, SEC.4.*

#### **IC 4-4-11.5-15**

##### **Repealed**

*(Repealed by P.L.25-1987, SEC.60.)*

#### **IC 4-4-11.5-16**

##### **"Year"**

Sec. 16. As used in this chapter, "year" means a calendar year.  
*As added by P.L.20-1985, SEC.7.*

#### **IC 4-4-11.5-16.5**

##### **Purpose**

Sec. 16.5. The purpose of this chapter is to allocate the volume cap under Section 146 of the Internal Revenue Code.  
*As added by P.L.10-1996, SEC.5.*

#### **IC 4-4-11.5-17**

##### **Federal allocation formula supplanted; allocation and assignment of volume cap**

Sec. 17. (a) The allocation formula established by Section 146(b) and Section 146(c) of the Internal Revenue Code for the volume cap established for Indiana is supplanted under the authority granted by Section 146(e) of the Internal Revenue Code.

(b) All amounts of the volume cap are annually allocated to the state. Thereafter all amounts of the volume cap are assigned from the state to other issuers as provided in this chapter.

*As added by P.L.20-1985, SEC.7. Amended by P.L.2-1987, SEC.7; P.L.25-1987, SEC.21; P.L.10-1996, SEC.6.*

#### **IC 4-4-11.5-18**

##### **Categories of bonds**

Sec. 18. (a) The volume cap shall be allocated annually among categories of bonds in accordance with section 19 of this chapter. Those categories are as follows:

- (1) Bonds issued by the IFA.
- (2) Bonds issued by the IHCD.
- (3) Bonds issued by the ISMEL.
- (4) Bonds issued by local units or any other issuers not specifically referred to in this section whose bonds are or may become subject to the volume cap for projects described in:
  - (A) Division A - Agricultural, Forestry, and Fishing;
  - (B) Division B - Mining;
  - (C) Division C - Construction;
  - (D) Division D - Manufacturing;
  - (E) Division E - Transportation; and
  - (F) Division F - Wholesale Trade;

of the SIC Manual (or corresponding sector in the NAICS Manual), and any projects described in Section 142(a)(3), 142(a)(4), 142(a)(5), 142(a)(6), 142(a)(8), 142(a)(9), or

142(a)(10) of the Internal Revenue Code.  
 (5) Bonds issued by local units or any other issuers not specifically referred to in this section whose bonds are or may become subject to the volume cap for projects described in:  
 (A) Division G - Retail Trade;  
 (B) Division H - Finance, Insurance, and Real Estate;  
 (C) Division I - Services;  
 (D) Division J - Public Administration; and  
 (E) Division K - Miscellaneous;  
 of the SIC Manual (or corresponding sector in the NAICS Manual), and any projects described in Section 142(a)(7) or 144(c) of the Internal Revenue Code.

(b) For purposes of determining the SIC category of a facility, the determination shall be based upon the type of activity engaged in by the user of the facility within the facility in question, rather than upon the ultimate enterprise in which the developer or user of the facility is engaged.

*As added by P.L.20-1985, SEC.7. Amended by P.L.10-1986, SEC.3; P.L.2-1987, SEC.8; P.L.25-1987, SEC.22; P.L.11-1990, SEC.81; P.L.10-1996, SEC.7; P.L.291-2001, SEC.116; P.L.235-2005, SEC.36; P.L.1-2006, SEC.36 and P.L.181-2006, SEC.4.*

#### **IC 4-4-11.5-19**

##### **Volume cap; allocation among bond categories; alteration of allocation**

Sec. 19. (a) On or before January 1 of each year, the IFA shall determine the dollar amount of the volume cap for that year.

(b) Each year the volume cap shall be allocated among the categories specified in section 18 of this chapter as follows:

Type of Bonds	Percentage of Volume Cap
Bonds issued by the IFA.....	9%
Bonds issued by the IHCD.....	28%
Bonds issued by the ISMEL.....	1%
Bonds issued by local units or other issuers under section 18(a)(4) of this chapter.....	42%
Bonds issued by local units or other issuers under section 18(a)(5) of this chapter.....	20%

(c) Except as provided in subsection (d), the amount allocated to a category represents the maximum amount of the volume cap that will be reserved for bonds included within that category.

(d) The IFA may adopt a resolution to alter the allocations made by subsection (b) for a year if it determines that the change is necessary to allow maximum usage of the volume cap and to promote the health and well-being of the residents of Indiana by promoting the public purposes served by the bond categories then subject to the volume cap.

(e) The governor may, by executive order, establish for a year a

different dollar amount for the volume cap, different bond categories, and different allocations among the bond categories than those set forth in or established under this section and section 18 of this chapter if it becomes necessary to adopt a different volume cap and bond category allocation system in order to allow maximum usage of the volume cap among the bond categories then subject to the volume cap and to promote the health, welfare, and well-being of the residents of Indiana by promoting the public purposes served by the bond categories then subject to the volume cap.

*As added by P.L.20-1985, SEC.7. Amended by P.L.10-1986, SEC.4; P.L.25-1987, SEC.23; P.L.11-1990, SEC.82; P.L.27-1993, SEC.2; P.L.10-1996, SEC.8; P.L.291-2001, SEC.117; P.L.235-2005, SEC.37; P.L.1-2006, SEC.37 and P.L.181-2006, SEC.5; P.L.1-2009, SEC.6.*

#### **IC 4-4-11.5-19.5**

##### **Determination of special volume cap**

Sec. 19.5. The IFA shall determine the allocation of any special volume cap in accordance with the federal act authorizing the special volume cap.

*As added by P.L.182-2009(ss), SEC.52.*

#### **IC 4-4-11.5-20**

##### **Repealed**

*(Repealed by P.L.10-1986, SEC.14.)*

#### **IC 4-4-11.5-21**

##### **Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

#### **IC 4-4-11.5-22**

##### **Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

#### **IC 4-4-11.5-23**

##### **Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

#### **IC 4-4-11.5-24**

##### **Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

#### **IC 4-4-11.5-25**

##### **Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

#### **IC 4-4-11.5-26**

##### **Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

**IC 4-4-11.5-27**

**Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

**IC 4-4-11.5-28**

**Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

**IC 4-4-11.5-29**

**Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

**IC 4-4-11.5-30**

**Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

**IC 4-4-11.5-31**

**Elimination of categories; granting and priority of applications**

Sec. 31. (a) At 5 p.m. on December 20 of each year, all categories established by section 18 of this chapter are eliminated and any remaining amounts in those categories shall be placed in a single noncategorized state pool.

(b) After 5 p.m. on December 20 of the year applications for a grant of volume cap shall be granted from the single noncategorized state pool. These applications shall be granted in the order of priority established in the guidelines adopted under section 39 of this chapter.  
*As added by P.L.20-1985, SEC.7. Amended by P.L.10-1986, SEC.11; P.L.25-1987, SEC.34; P.L.11-1990, SEC.92; P.L.10-1996, SEC.9.*

**IC 4-4-11.5-32**

**Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

**IC 4-4-11.5-33**

**Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

**IC 4-4-11.5-34**

**Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

**IC 4-4-11.5-35**

**Public finance director; delegation of duties**

Sec. 35. The public finance director appointed under IC 4-4-11-9 may delegate any of the duties prescribed by this chapter to any employees of the IFA.

*As added by P.L.20-1985, SEC.7. Amended by P.L.11-1990, SEC.96; P.L.10-1996, SEC.10; P.L.235-2005, SEC.38.*

**IC 4-4-11.5-36**

**Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

**IC 4-4-11.5-37**

**Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

**IC 4-4-11.5-38**

**Repealed**

*(Repealed by P.L.10-1996, SEC.17.)*

**IC 4-4-11.5-39**

**Forms; guidelines**

Sec. 39. (a) Notwithstanding IC 5-15-5.1, the IFA has the sole authority to prescribe and furnish forms used in the administration of this chapter.

(b) The IFA may adopt guidelines, without complying with IC 4-22-2, to govern the administration of this chapter. The guidelines may establish procedures, criteria, and conditions for each category of bonds identified in sections 18 and 19 of this chapter. However, the guidelines may not be inconsistent with the requirements of Section 146 of the Internal Revenue Code.

*As added by P.L.20-1985, SEC.7. Amended by P.L.11-1990, SEC.98; P.L.10-1996, SEC.11; P.L.235-2005, SEC.39.*

**IC 4-4-11.5-40**

**Qualifications for grant of volume cap**

Sec. 40. To qualify for a grant of volume cap, an applicant must do the following:

- (1) Apply for the grant in conformity with the procedures established by the IFA.
- (2) Provide the information reasonably requested by the IFA to carry out this chapter.
- (3) Meet the criteria established by the IFA for the category of bond for which the application is filed.
- (4) Pay the fees established by the IFA.

*As added by P.L.10-1996, SEC.12. Amended by P.L.235-2005, SEC.40.*

**IC 4-4-11.5-41**

**Written procedures for applications and carryforward elections**

Sec. 41. The IFA shall establish a written:

- (1) application procedure for the granting of a portion of the volume cap to an applicant; and
- (2) procedure for filing carryforward elections.

*As added by P.L.10-1996, SEC.13. Amended by P.L.235-2005, SEC.41.*

**IC 4-4-11.5-42**

**Written criteria for selection of grant applications**



Sec. 42. The IFA shall establish written criteria for the selection of grant applications from among the applicants that qualify for the grant under section 40 of this chapter. The criteria must promote the health and well-being of the residents of Indiana by promoting the public purposes served by each of the bond categories subject to the volume cap.

*As added by P.L.10-1996, SEC.14. Amended by P.L.235-2005, SEC.42.*

#### **IC 4-4-11.5-43**

##### **Conditions for termination of grant of volume cap**

Sec. 43. The IFA may establish conditions for the termination of a grant of volume cap. The conditions may include requirements such as the following:

- (1) That the amount of volume cap granted may not be substantially higher than the amount of actual bonds issued.
- (2) That the issuer issue bonds within the time specified by the IFA.

*As added by P.L.10-1996, SEC.15. Amended by P.L.235-2005, SEC.43.*